



Australian Government

The Treasury

PRIVATE HEALTH INSURANCE (PRUDENTIAL SUPERVISION) BILL 2015: CESSATION OF THE PRIVATE HEALTH INSURANCE ADMINISTRATION COUNCIL

SUMMARY OF CONSULTATION PROCESS

The Government announced in the 2014-15 Budget as part of its smaller government reforms that the Private Health Insurance Administration Council (PHIAC) would cease as a separate body and the prudential regulation functions would transfer to the Australian Prudential Regulation Authority (APRA).

Consultation process

Consultation on the Exposure Draft *Private Health Insurance (Prudential Supervision) Bill 2015* and explanatory materials was conducted between 12 January and 30 January 2015.

A total of ten submissions were received, three of which were confidential. Non-confidential submissions can be viewed on the Treasury website.

Summary of key issues

Of the submissions received most submissions noted that the functions and powers of APRA to regulate prudential matters largely reflected the existing provisions within the *Private Health Insurance Act 2007* and where there are changes, they are considered minor.

Submissions did raise some consistent issues for consideration:

- The distinct nature of the private health insurance industry and the need for the APRA to take this into account as it prudentially regulates private health insurance;
- The offences in the Bill, particularly the severity of penalties and the inconsistencies between penalties; and
- The breadth of APRA's powers, including its powers to monitor and investigate and take action where it has prudential concerns.



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Several submissions raised concerns on additional issues that were not covered in the Exposure Draft legislation and sought confirmation of proposed policy outcomes and further consultation on these provisions. Issues raised include:

- Explanation of how the levy imposition Acts will apply to private health insurers, particularly with regards to how the levy is calculated, the rate at which late payment penalties are to be applied and whether APRA will have the power to waive late payment penalties;
- Application of the *Financial Sector Collection of Data Act 2001* (FSCODA) to private health insurers;
- Regulatory impact and cost efficiencies of the measure; and
- Further consultation on the remaining parts of the legislative package, including transitional arrangements, rules and standards as appropriate.

The following changes will be made following consultation with industry:

- References to the Australian financial system will be changed back to references to the Australian private health insurance system.
- The Government will consider ways to reduce inconsistencies between offences and reduce severity of the penalties.
- Further guidance on APRA's powers will be provided in the Explanatory Memorandum.
- Minor mechanical and technical comments raised by industry will be adopted, where possible, in revisions to the Bill.
- The new Private Health Insurance Supervisory Levy Imposition Bill will ensure that the supervisory levy is still collected on a single equivalent user basis and the existing maximums (\$2 per annum for single policies and \$4 per annum for joint policies) will be maintained. These rates will not be indexed. The amount to be collected from the Private Health Insurance Supervisory Levy will be based on APRA's actual costs, in line with the cost recovery guidelines.

The Private Health Insurance Supervisory Levy Imposition Bill will be revised to allow the Minister to determine the late payment penalty in the annual Levy Imposition Determination. The maximum late payment penalty that can be applied by the Minister will be 15 per cent, consistent with the existing PHIAC administration levy.

Under the existing *Financial Institutions Supervisory Levies Collection Act 1998*, APRA have the power, on behalf of the Commonwealth, to waive the payment of the whole or a part of any levy or late payment penalty collected by APRA, when it considers it appropriate to do so. APRA will continue to have this power in relation to private health insurers.



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- Application of FSCODA will allow APRA to make reporting standards for private health insurers under section 13. It is proposed that the initial standards, to take effective 1 July 2015, would substantially replicate existing requirements that apply to private health insurers under the current regime, to ensure continuity. Private health insurers would not be required to register as 'registrable corporations' under Part 2 of FSCODA.
- The transfer of PHIAC's functions to APRA will, over time, result in lower supervisory levies for the private health insurer over the forward estimates as a result of increased back-office efficiencies and savings on staff. These benefits will not become apparent immediately due to transitional costs associated with the transfer. Further, Treasury releases an annual discussion paper for consultation after the Budget each year that outlines any proposed changes to levies.

Feedback

For further information on technical issues raised in submissions and how these will be addressed, please contact Tim Goodland on 02 6263 4464.

Thank you to all participants in the consultation process.